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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/891,167	06/26/2001	Andy L. Ruse	219.40066X00	1366
23838	7590	10/07/2004	EXAMINER	
KENYON & KENYON 1500 K STREET, N.W., SUITE 700 WASHINGTON, DC 20005			JOO, JOSHUA	
			ART UNIT	PAPER NUMBER
			2154	

DATE MAILED: 10/07/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/891,167

Applicant(s)

RUSE ET AL.

Examiner

Joshua Joo

Art Unit

2154

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 June 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

Claim Objections

1. Claims 1, 12, and 13 are objected to because of the following informalities:
 - i) In claim 1, line 6, the word "bases" should be "basis".
 - ii) In claim 12, line 3, the word "user" is missing in between the words "the" and "at" in the sentence, where the claim states "proceed to contact the at the location".
 - iii) In claim 13, line 6, the word "bases" should be "basis".

Claim Rejections - 35 USC § 103

2. Claims 1-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Singh, US Patent #6,405,035 and in view of Lemelson et al, US Patent #6,028,514 (Lemelson hereinafter).
3. As per claim 1, Singh teaches an invention for forwarding messages to a subscriber device. Singh's invention comprises of:
 - a) Monitoring locations of access of incoming messages along with the time of day and day of week. (Column 3, lines 18-23. Agents monitor the message status, which includes receipt and access of messages for the subscriber's devices.)
 - b) Storing each access of the message along the associated time of day and day of week in a database. (Column 3, line 30-31. Host server maintains a record of the access time and date of the message.)
 - c) Performing a statistical trend analysis on a user basis to determine a probability of contacting the user for a given time of day and day of week at a given location. (Column 5, lines 13-16. Host server determines which subscriber device will have the highest probability of receiving the message.)

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d) Storing in a trend analysis table the result of the statistical trend analysis performed. (Column 3, lines 9-11. Host server has memory for storing subscriber information and processing the sending of messages.)

e) Transferring incoming messages to the location in the trend analysis table with the highest probability of contacting the user. (Column 6, lines 3-4. The message is send to the device with the highest probability of receiving the message.)

4. Singh's invention differs from the claimed invention that it monitors the receipt and access of the message but not the response to the message. Lemelson teaches an invention for monitoring a person's location, where a monitor checks for responses to paged messages. (Column 16, line 53 – Column 17, line 14).

5. It would have been obvious to one of ordinary skill at the time of the invention was made to combine the inventions of Singh and Lemelson and monitor the response of the incoming message because monitoring the response will improve Singh's invention by it provides a more accurate and reliable method for determining the location of the user. By monitoring the response of the message, there is a higher probability that the user is at the location where message was sent

6. As per claim 7, Singh teaches an invention for forwarding messages to a subscriber device. Singh's invention comprises of:

a) Monitoring module to monitor access by users to messages received and store the location of the receipt with a time stamp in a database. (Column 3, lines 18-23. Agents monitor the message status, which includes receipt and access of messages for the subscriber's devices.)

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b) A trend analysis module to perform a statistical probability on the location and time stamp data in the database and determine the probability of contacting the user at each of a plurality of locations for a given time of day and storing the probability of contacting the user at each of a plurality of locations in a trend analysis table. (Column 5, lines 13-16. Host server ranks each device to determine which subscriber device will have the highest probability of receiving the message.)

c) Forwarding module to receive an incoming message and forward the incoming message to a location with the highest probability of contacting the user as designated in the trend analysis table. (Column 3, lines 5-8. Host server receives the message request and forwards to the subscriber. Column 6, lines 3-6. After ranking the devices, the message is send to the highest ranked device.)

7. Singh's invention differs from the claimed invention that it monitors the receipt and the access of the message but not the response to the message. Lemelson teaches an invention for monitoring a person's location, where a monitor checks for responses to paged messages. (Column 16, line 53 – Column 17, line 14).

8. It would have been obvious to one of ordinary skill at the time of the invention was made to combine the inventions of Singh and Lemelson and monitor the response of the message because monitoring the response will improve Singh's invention by it provides a more accurate and reliable method for determining the location of the user. By monitoring the response of the message, there is a higher probability that the user is at the location where was message was sent.

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9. As per claim 13, Singh teaches a computer program for forwarding messages to a subscriber device. Singh's invention comprises of: (Column 8, lines 23-26. Host server has software to have the functionality of the present invention.)

a) Monitoring locations of receipt to incoming messages along with the time of day and day of week. (Column 3, lines 13-15. Software application is contained in the host application server and the devices for monitoring the delivery of the messages. Column 3, lines 18-23. Agents monitor the message status, which includes receipt and access of messages for the subscriber's devices.)

b) Storing each access along the associated time of day and day of week in a database. (Column 3, line 30-31. Host server maintains a record of the access time and date of the message.)

c) Performing a statistical trend analysis on a user basis to determine a probability of contacting the user for a given time of day and day of week at a given location. (Column 5, lines 13-16. Host server determines which subscriber device will have the highest probability of receiving the message.)

d) Storing in a trend analysis table the result of the statistical trend analysis performed. (Column 3, lines 9-11. Host server has memory for storing subscriber information and processing the sending of messages.)

e) Transferring incoming messages to the location in the trend analysis table with the highest probability of contacting the user. (Column 6, lines 3-4. The message is send to the device with the highest probability of receiving the message.)

10. Singh's invention differs from the claimed invention that it monitors the receipt and access of the message but not the response to the message. Lemelson teaches an invention

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for monitoring a person's location, where a monitor checks for responses to paged messages.

(Column 16, line 53 – Column 17, line 14).

11. It would have been obvious to one of ordinary skill at the time of the invention was made to combine the inventions of Singh and Lemelson and monitor the response of the message because monitoring the response will improve Singh's invention by it provides a more accurate and reliable method for determining the location of the user. By monitoring the response of the message, there is a higher probability that the user is at the location where the message was sent.

12. As per claims 2, 8 and 14, Singh teaches the invention of claims 1, 7 and 13, wherein said trend analysis table comprises a user identification, a plurality of times a day and days of week with locations of contact and probabilities of successful contact associated with each location. (Column 2, lines 59-60. Subscriber registers with host server. Column 5, lines 19-20. Subscriber provides host server a schedule of the times at which they can be contacted. Column 5, lines 13-15. Host server ranks the devices for the highest probability the subscriber will receive the message.)

13. As per claims 3, 9, and 15, Singh teaches the invention of claims 2, 8, and 14 wherein said trend analysis table further comprises a user override location that indicates probabilities of successful contact for each location are to be ignored and only the override location is to be used for contact. (Column 5, lines 59-63. The subscriber may determine which of the devices messages are to be received. Subscriber may instruct the host server to send messages to specific devices)

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14. As per claims 4, 10, and 16, Singh teaches the invention of claims 3, 9, and 15 wherein the incoming messages and responses are from PSTN telephone, cellular telephone, pager, fax, voice mail, e-mail or other voice or digital communication format. (Column 6, line 62 – Column 7 line 25. Messages may originate from any number of locations through the Internet, PSTN, or wireless communication devices. Column 8, lines 3-11. The devices may include cellular telephone, facsimile, pager or Internet access)

15. As per claim 5, 11, and 17, Singh teaches the invention of claims 4, 10, and 16 where the invention further comprises of checking the user override location in the trend analysis table and transmitting the incoming message to the user override location when set. (Column 5, line 59 – column 6, line 2. Subscriber may instruct Host server which of the devices messages are to be received. Subscriber may instruct Host server to send messages to specific devices.)

16. As per claims 6, 12, and 18, Singh teaches the invention of claims 4, 10, and 16 comprising:

a) Contacting the user at the location with the highest probability of successful contact associated with the location. (Column 6, lines 4-5. The message is send to the device with the highest rank.)

b) Contacting the user at the location with second highest probability of success when unable to contact the user at the location with the highest probability of success. (Column 6, lines 8-14. If the subscriber doesn't access the message of the first device, the message is send to the next ranked device.)

Conclusion

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17. A shortened statutory period for reply to this Office action is set to expire THREE MONTHS from the mailing date of this action.

18. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joshua Joo whose telephone number is 703 605-4345. The examiner can normally be reached on Monday to Friday 7 to 4.

19. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John A Follansbee can be reached on 703 305-8498. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

20. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

September 13, 2004
JJ



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